

### **REMARKS/ARGUMENTS**

Applicant has carefully reviewed and considered the Office Action mailed on October 13, 2010, and the references cited therewith.

No claims are amended, canceled, or added; as a result, claims 1-30, 40, 42, and 59 are now pending in this application.

#### **Examiner Interview Summary**

Applicant and Examiner Severson conducted a telephone interview on January 7, 2011, to discuss the cited reference in the present Office Action. Applicant believes the discussion was helpful in furthering prosecution of the case and thanks Examiner Severson for his time and consideration.

#### **§ 102 Rejection of the Claims**

Claim 40 was rejected under 35 USC §102(e) as being anticipated by Marcade (U.S. Patent No. 5,683,449). Applicant does not admit that the Marcade reference is prior art and reserves the right to swear behind the same at a later date. Nevertheless, in the interests of furthering prosecution, Applicant respectfully traverses the rejection as follows.

Applicant respectfully submits that the Marcade reference does not teach each and every element of Applicant's independent claim 40. From Applicant's review Marcade appears to teach a bifurcated graft that is formed from a series of individual components that are intraluminally delivered apart from one another and then assembled to form a supported structure. (Abstract). Specifically, Marcade states:

One procedure for implanting and assembling a modular system incorporating base member 700 may be similar to that described above in connection with base member 600. That is, the primary graft 110 would be deployed first, following which base member 700 may be deployed with its proximal end 700a inserted

into and expanded within the distal end 110b of primary graft 110. Graft 114 may then be fed upwardly until its proximal end 114a resides within tubular channel 710 at a spaced distance above radiomarkers 720. Upon its deployment, the proximal end 114a of graft 114 will become securely locked within tubular channel 710 and the distal end 114b thereof will engage and become secured within right iliac 206. Graft 116 may then be fed upwardly until its proximal end 116a lies within tubular channel 712 at a spaced distance above radiomarkers 720. Upon deployment of graft 116, the proximal end 116a thereof will become securely locked within tubular channel 712 and the distal end 116b thereof will engage and become secured within left iliac 208. It will be appreciated from the foregoing that graft 110, base member 700 and graft 114 may be deployed in succession from a first delivery catheter assembly, with graft 116 being deployed from a second delivery catheter assembly. In an alternate procedure employing base member 700, the base member may be deployed first, followed in succession by grafts 110, 114 and 116.

(Col. 21, ln. 27-52).

By so stating, Marcade appears to teach that the grafts 114 and 116, when fully deployed, are locked within channels 710 and 712, respectively, of the base member 700. Therefore, Marcade does not teach:

said generally cylindrical supportive leg component and one of said leg portions of said liner, **when said leg component and trunk component have been fully deployed within the body vessel, are not connected to and are telescopically slidable with respect to each other;**

as recited in Applicant's independent claim 40, as previously presented.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 102 rejection of independent claim 40 and those claims that depend therefrom.

### §103 Rejection of the Claims

Claim 42 was rejected under 35 USC § 103(a) as being unpatentable over Marcade (U.S. Patent No. 5,683,449). Applicant respectfully traverses the rejection as follows.

Claim 42 depends from independent claim 40. For the reasons set forth above, Applicant respectfully submits that claim 40 is in condition for allowance. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejection of claim 42, which depends from independent claim 40.

*Allowable Subject Matter*

Claims 1-30 are allowed.

Claim 59 was objected to as being dependent upon a rejected base claim. Examiner notes that claim 59 defines over the prior art, but can not be rewritten in independent form because this reissue application would then no longer be correcting an identified error (more detailed explanation for this situation can be found in the Non-Final Rejection of 3/15/2010) and would not be allowed under 35 U.S.C § 251.

Applicant thanks the Examiner for the indication of allowable subject matter.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's below listed attorney at (612) 236-0132 to facilitate prosecution of this matter.

**CERTIFICATE UNDER 37 CFR §1.8:** The undersigned hereby certifies that this correspondence is being electronically filed with the United States Patent and Trademark Office on this 13<sup>th</sup> day of

January, 2011.

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